

**REMARKS****INTRODUCTION**

In accordance with the foregoing, claims 1, 6-8, 15, 19-21, 27, and 34 have been amended, and claims 39-44 have been added. No new has been submitted.

Claims 1-44 are pending, with claims 1-8, 15-21, 27-33, and 39-44 being under consideration. Claims 6-8 and 19-21 have been amended into independent condition.

**REQUEST FOR NEW OFFICE ACTION – CURRENT ACTION INCOMPLETE**

Applicants respectfully request a new non-final Office Action correcting deficiencies in the outstanding Office Action.

The outstanding Office Action fails to address each and every claimed feature, as well as each and every claim.

Rather, the Office Action includes only brief statements that generally combine all features from a large number of claims and merely states the rejection of the claims without pointing out where in the relied upon reference the corresponding claim features can be found, e.g., in the anticipation rejection on page 5 regarding Hwang, U.S. Patent No. 6,816,443, and without discussing the required elements of a prima facie obviousness case.

As stated in MPEP 706.02(j) and 2141, the Office Action is required to include an analysis under Graham factual guidelines, where the examiner should set forth in the Office action: (A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate, (B) the difference or differences in the claim over the applied reference(s), (C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and (D) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

However, the multiple differing §103 rejections on pages 5, 6, and 7 merely cite the references relied upon, a feature of a secondary reference, and concludes that the same feature would have been obvious to modify into the primary reference. Here, though, there is no discussion of what features are missing from the primary reference, or a particular discussion for each claim or an indication of what feature is being addressed by each modification, or whether there is reasonable anticipation of success for such proposed modifications.

Again, further, as noted above paragraph 5 on page 5 of the Office Action merely states that a number of different claims are merely rejected based upon 35 USC 102, without any further

statement regarding any of the features of the claims nor how any of the claimed features correspond to any of the elements of Hwang.

Lastly, the obviousness rejection of paragraph 7, on page 6 of the Office Action, cites references Miyazaki and Choi, but fails to further reference Miyazaki in the rejection (rather citing Watanabe) and fails to identify Choi. **This rejection is improper and it is unclear what the Examiner is relying on to reject the claims.**

It is respectfully submitted that the outstanding Office Action is improper. A new non-final Office Action correcting these deficiencies is respectfully requested.

In addition, it is respectfully submitted that any further Office Action correcting these deficiencies, but maintaining the rejections or setting forth new rejections, must also be a non-final Office Action. The outstanding Office Action is improper and the rejections therein should respectfully be withdrawn.

#### REJECTIONS UNDER 35 USC §§ 101 AND 112

Claims 27-33 stand rejected under 35 USC §101, as the Office Action indicates that the claimed invention is directed to non-statutory subject matter; and claims 27-33 stand rejected under 35 USC §112, first paragraph, as the Office Action indicates that the specification does support the term "computer readable medium".

First, the Office Action has indicated that the claimed computer readable medium of claim 27 is directed to non-statutory subject matter. Applicants respectfully disagree. Regardless, to further prosecution, applicants have amended claim 27 to set forth a storage medium. The claimed storage medium including such computer readable code is clearly supported by the specification in paragraph [0047], which recites:

Further, embodiments of the present invention may be controlled by a general purpose digital computer, or computers, by running computer readable code from a medium, including but not limited to storage media such as magnetic storage media (e.g., ROMs, floppy discs hard discs, etc.), optically readable media (e.g., CD-ROMs, DVDs, etc.), carrier waves (e.g., transmissions over the Internet), and electrical wave guides. The medium may also be dispersively installed in a computer system connected to a network, and stored and executed as a computer readable code by a distributed computing environment.

Further, the specification clearly describes such a claimed storage medium, including the magnetic storage media (e.g., ROMs, floppy discs hard discs, etc.) and optically readable media (e.g., CD-ROMs, DVDs, etc.), as well as the computer system storing the same for a distributed network. Thus, though applicants disagree with the statements in the Office Action regarding the

previously claimed "computer readable medium", applicants have removed this objected to language and replaced the same with "storage", to further prosecution.

Withdrawal of this rejection is respectfully requested.

#### REJECTION UNDER 35 USC §102

Claims 1-4, 15, 16, 18, 27, 28, and 30 stand rejected under 35 USC §102(b) as being anticipated by Ogihara, U.S. Patent No. 6,868,051. This rejection is respectfully traversed.

In applicants' previous response, applicants at least pointed out that Ogihara failed to disclose at least the claimed "a wobble amplitude detector to detect an amplitude of a wobble formed on the recording medium based" and the "system controller to discriminate a recording medium type of the recording medium by comparing the wobble amplitude with a reference value."

In particular, it was pointed out that Ogihara actually set forth running a push-pull signal through two different filters and **comparing the output of those filters** to determine the medium type.

In particular, again, Ogihara filters the push-pull signal through a first band pass filter corresponding to the frequency of wobbles for a first type of medium, and then filters the push-pull signal through a second band pass filter corresponding to the frequency of wobbles for a second type of medium. The described wobble frequencies are used for clock synchronization, and would be different for different media types. See Ogihara in col. 3, line 48, through col. 4, line 6.

In response to applicants' comments, the Office Action states that "amplitude of the detected wobble signal is most certainly present, and a detection of the level thereof is performed. Inherently the level is detected against some reference value, else there would be no output," on page 4 of the Office Action.

However, as noted above, and particularly described in Ogihara, col. 4, lines 38-67, any calculated amplitudes of the filtered push-pull signal are not compared against a "reference value", **but are actually compared against each other**. Here, neither of the amplitudes of the two the band-pass filtered push-pull signals can be considered a reference value.

Again, in Ogihara, the output is generated by comparing the two filtered signals, not by comparing one filtered signal with a reference value.

Thus, it is respectfully submitted that Ogihara has been misunderstood.

To further clarify the claimed invention and to further prosecution, independent claims have been amended to state that the reference value is a pre-set wobble amplitude. Thus, in

addition, to the above, Ohihara further clearly fails to disclose any comparison of any amplitude with a pre-set wobble amplitude.

In view of at least the above, it is respectfully submitted that Oqihara fails to disclose the claimed features of the independent claims. In addition, for at least the above, it is respectfully submitted that claims depending from the above claims are also in allowable condition.

Accordingly, withdrawal of this rejection is respectfully requested.

Claims 1, 5, 15, 16, 27, and 28 stand rejected under 35 USC §102(e) as being anticipated by Hwang, U.S. Patent No. 6,816,443. This rejection is respectfully traversed.

Similar to above, it is respectfully submitted that Hwang fails to disclose either of the claimed wobble amplitude detection or the claimed comparison of the detected wobble amplitude and the claimed reference value, nor the claimed pre-set wobble amplitude reference value.

Hwang would appear to set forth a method of distinguishing between media types by detecting RF signals from off-track area across multiple tracks as the medium is rotated to detect an average value of sampled envelopes of the RF signal.

Because different disk types will have different track/groove pitches, for example, the RF values will be different for the different disk types. Accordingly, by comparing the average sampled envelope with reference envelopes the disk type can be determined.

However, this sampling of an envelope of the RF signal, taking an average of envelopes, and then comparing that average with reference envelopes, cannot be compared the same as claimed detecting of the wobble amplitude or the claimed comparison of that detected wobble amplitude with a reference value. The claimed wobble amplitude is different from the averaged envelopes of RF signals discussed in Hwang.

If the next Office Action maintains this rejection, applicants respectfully request the Examiner particularly identify what elements of Hwang the Examiner is interpreting as corresponding to each claimed feature, and how the Examiner is interpreting each relied upon feature of Hwang.

In view of at least the above, it is respectfully submitted that Hwang fails to disclose the features recited in the independent claims. In addition, for at least the above, it is respectfully submitted that claims depending from the above claims are also in allowable condition.

Withdrawal of this rejection is respectfully requested.

## REJECTION UNDER 35 USC §103

Claims 6-8, 17, 19-21, 29, and 31-33 stand rejected under 35 USC §103(a) as being unpatentable over Ogihara or Hwang and further in view of Morita, U.S. Patent No. 6,207,247. This rejection is respectfully traversed.

It is respectfully submitted that Morita fails to disclose or suggest the above deficient features.

The Office Action has relied upon the discussion in Morita to set forth example wobble amplitudes, and indicated that "it would have been obvious to modify the base system of [Ogihara or Hwang] in order to set forth an appropriate threshold value, or range of values that are indicative of the breaking point between the dvd-rw and dvd+rw amplitude. Selection of such is an optimization of the system and obvious predicated upon the well-known amplitude range."

However, it is respectfully submitted that this proposed reasoning for modifying either Ogihara or Hwang is inappropriate for both references.

As noted above, Ogihara particularly sets forth a system that does not have to use stored reference values of wobble amplitudes. Rather, Ogihara filters current received push-pull signals and compares amplitudes of both filtered signals to each other. Such a change to Ogihara would fundamentally change the operation and defeat the invention of Ogihara.

Similarly, Hwang would, rather, store example envelopes of RF signals across a disk and based upon a comparison of that average of sampled envelopes to a reference envelope the type of disk can be detected. The sample envelope is not the same as the claimed wobble signal and reference value. Similar to above, such a change to Hwang to store the wobble amplitude would merely result in an unnecessary reference variable being stored; Hwang does not use such a reference value and samples different types of data for the disclosed Hwang comparison. In addition, similar to Ogihara, such a proposed change to Hwang would fundamentally change Hwang and defeat the invention thereof.

Thus, neither Ogihara or Hwang would need or desire such wobble amplitude information for comparison with a wobble amplitude. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 1, 2, 15 and 27 stand rejected under 35 USC §103(a) as being unpatentable over Miyazaki et al., U.S. Patent No. 7,023,777, and further in view of JP 2000-285582 (relying on the English disclosure of Hwang) or Choi. This rejection is respectfully traversed.

First, applicants respectfully submit that this rejection based upon Choi is improper. Applicants have not been given information regarding what reference this is, i.e., they have not been provided a reference no. or an indication of the same in the Office Action PTO-892 Form. This rejection is unclear.

Similarly, applicants respectfully submit that this rejection based upon Miyazaki et al. is improper. Though the title of paragraph 7 on page 6 recites that the rejection is based upon Miyazaki et al., the rejection references Watanabe, presumably U.S. Patent No. 6,493,304. However, this rejection is unclear, i.e., it is unclear whether the rejection was meant to focus on Watanabe or Miyazaki.

Applicants respectfully request a new non-final Office Action clarifying this rejection.

Applicants further respectfully request any further Office Action particularly identify, as required by the MPEP, each and every feature of either Miyazaki et al. or Watanabe as relied upon to disclose a particularly identified claim feature.

Further, it is respectfully submitted that neither Miyazaki et al. nor Watanabe disclose or suggest the aforementioned detection of the wobble amplitude and comparison of that detected wobble signal to wobble amplitude reference value.

Still further, it is further submitted that neither Miyazaki et al. nor Watanabe set forth enabling disclosures sufficient to disclose the presently claimed invention. Here, a brief mention in a reference of a potential operation should not be sufficient teaching for one skilled in the art to be able to perform the same without undue experimentation.

This inadequacy is further evidenced by the Office Action's need in the below-mentioned rejections of dependent claims to use multiple references to set forth features that the Office Action indicated Ogihara already disclosed all by itself, i.e., if either Miyazaki et al. or Watanabe were sufficiently enabling for what the Office Action is relying on them to disclose then a number of the remaining missing features would already be disclosed by Miyazaki et al. or Watanabe.

Regarding Watanabe, if this is the reference meant to be relied upon by the Office Action, col. 19, line 45, through col. 24, line 32, of Watanabe set forth fifth, sixth, and seventh embodiments regarding FIGS. 14-16, with a particular methodology for implementing the invention of Watanabe, which also fails to disclose a system or methodology similar to the claimed invention.

If the Office Action is referencing Watanabe, in col. 23, starting at line 47, this portion of Watanabe particularly fails to disclose or suggest detecting for a wobble signal and comparing that wobble signal with a reference wobble signal.

Rather, this portion of Watanabe appears to only briefly mention wobbles as existing on the RAM disks, and rather sets forth that the focus control operation of Watanabe can be activated, "and by detecting the amplitude of each of the signals TE or the pulse width of noise at the time of binary representation, the distinction between a ROM disk and a RAM disk may be made depending on the detected value." This is not the same as detecting a wobble signal or comparing that wobble signal with a reference value.

Further, Watanabe thereafter states in lines 58-61 that "the distinction [between disk types] may be made depending on the level of a traverse signal (groove traverse signal generated on FE when the beam of light traverses the track."

However, this "distinction" being based on a level of a traverse signal is referencing whether the signal meets a minimum level that may, for example, merely indicate that something exists in this traverse signal that indicates that the disk is more likely a RAM disk than a ROM disk. This minimum level is merely a threshold for getting into a category of RAM disks, not a pre-set wobble reference value, and would not be compared to a wobble signal to determine the type of medium present. Thus, Watanabe fails to disclose both the detection of the wobble signal and the claimed comparing of the wobble signal to a pre-set wobble amplitude reference value.

Thus, in addition to Watanabe failing to be enabled for the Office Action proposed interpretation, it is respectfully submitted that Watanabe further fails to disclose the claimed features of detecting the wobble and comparing the detected wobble with a reference value.

Lastly, the Office Action relies upon at least Hwang to disclose a comparison with a reference value. However, as noted above, Hwang would only teach Miyazaki et al. or Watanabe to store an envelope or the RF signal and compare an average of envelope samples with the reference envelope.

Thus, Hwang would not support the Office Action's relied upon disclosure and would not teach Miyazaki et al. or Watanabe as proposed in the Office Action.

Accordingly, it is respectfully submitted that the proposed combination of references fail to disclose the claimed invention, the apparent relied upon portions of the primary references is not enabling for the Office Action suggested disclosure, and that it would not have been obvious to modify either Miyazaki et al. or Watanabe as proposed.

Withdrawal of this rejection is respectfully requested.

Claims 6-8, 17, 19-21, 29, and 31-33 stand rejected under 35 USC §103(a) as being unpatentable over the proposed combination of Miyazaki et al. or Watanabe and Hwang or Choi, and further in view of Morita; claims 3, 4, 18 and 30 stand rejected under 35 USC §103(a) as being further unpatentable in view of Park, U.S. Patent No. 6,809,997; claims 5, 16, 17, 28 and 29 stand rejected under 35 USC §103(a) as being further further unpatentable in view of Schep, U.S. Patent No. 7,113,467, and Park. These rejections are respectfully traversed.

It is respectfully submitted that none of Miyazaki et al., Watanabe, Hwang (with Choi not being reviewed as unknown to applicants), Morita, Park, nor Schep disclose or suggest the above mentioned features.

Withdrawal of these rejections is respectfully requested.

#### CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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